

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: Oakland

CRI 4-00170

PJH

UNITED STATES OF AMERICA,

v.

TONI DENISE DANIELS,

FILED

MAR 27 2014

**SEALED
BY COURT ORDER**

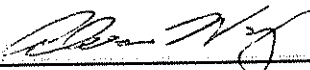
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

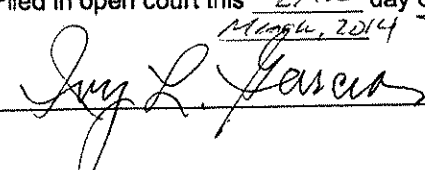
DEFENDANT.

INDICTMENT

18 U.S.C. § 1349 - Conspiracy to Commit Health Care Fraud; 21
U.S.C. § 846 - Conspiracy to Distribute and Dispense a Controlled
Substance; 21 U.S.C. §§ 841(a)(1) & (b)(1)(C) - Distribution and
Dispensing of a Controlled Substance; 26 U.S.C. § 7203 - Willful
Failure to File a Tax Return; 18 U.S.C. § 2 - Aiding and Abetting;
18 U.S.C. § 982 and 21 U.S.C. § 853 - Criminal Forfeiture
Allegations

A true bill.


Foreman

Filed in open court this 27th day of
March, 2014

Clerk

Bail \$ no bail warrant
Kandis Wishel 3/27/14

1 MELINDA HAAG (CABN 132612)
United States Attorney

FILED

MAR 27 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

SEALED
BY COURT ORDER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PJH

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

16 TONI DENISE DANIELS,

17 Defendant.

NO. CR14-00170

VIOLATIONS: 18 U.S.C. § 1349 - Conspiracy to
Commit Health Care Fraud; 21 U.S.C. § 846 -
Conspiracy to Distribute and Dispense a Controlled
Substance; 21 U.S.C. §§ 841(a)(1) & (b)(1)(C) -
Distribution and Dispensing of a Controlled
Substance; 26 U.S.C. § 7203 - Willful Failure to File
a Tax Return; 18 U.S.C. § 2 - Aiding and Abetting;
18 U.S.C. § 982 and 21 U.S.C. § 853 - Criminal
Forfeiture Allegations

UNDER SEAL

19
20 INDICTMENT

21 The Grand Jury charges:

22 INTRODUCTORY ALLEGATIONS

23 At all times relevant to this Indictment:

24 The Defendant

25 1. TONI DENISE DANIELS ("DANIELS"), a resident of Berkeley, California, was a
26 medical doctor licensed to practice medicine in the State of California pursuant to a Physician's and
27 Surgeon's certificate number issued by the Medical Board of California on August 24, 1979.
28

1/10

2. DANIELS' medical license was placed on probation on October 21, 2010. On April 5, 2011, DANIELS' medical license was temporarily suspended following an administrative hearing. On July 6, 2011, DANIELS surrendered her medical license pursuant to a stipulation with the Medical Board of California.

3. From approximately October 2010 through approximately April 2011, DANIELS was a self-employed medical doctor. During this period, DANIELS met with her clients and sold them prescriptions at various retail establishments in and around Oakland, California, including Starbucks, Burger King, Whole Foods Market, Chicken and Waffles, Dick's Donuts, and Kinko's.

Health Care Benefit Programs

4. The Medicare Program ("Medicare") was a federal program that provided free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare were prescribed by statute and by federal regulations under the auspices of the United States Department of Health and Human Services ("HHS"), through its agency, the Center for Medicare and Medicaid Services ("CMS"). Individuals who received benefits under Medicare were commonly referred to as Medicare "beneficiaries."

5. Health care professionals who enrolled with Medicare to receive reimbursement for providing medications, medical benefits, items, and services to beneficiaries, were referred to as Medicare providers. To become a Medicare provider, a health care professional completed and submitted a provider enrollment application certifying that he or she was familiar with and would comply with all Medicare laws, rules, and regulations. Medicare then assigned the provider a national provider identifier ("NPI") as well as a unique billing number to be used when seeking reimbursement from, or billing, Medicare.

6. The California Medical Assistance Program (“Medi-Cal”), often referred to as Medicaid in other states, was the name of the California Medicaid Welfare Program serving low-income families, certain low-income adults, and seniors with disabilities. It was jointly administered by the California Department of Health Care Services (“DHCS”) and CMS. Medi-Cal was funded with federal and state funds. Individuals who received benefits under Medi-Cal were commonly referred to as Medi-Cal “beneficiaries.”

7. Medicare Part D ("Part D"), also known as Medicare Prescription Drug Plan, covered the costs of prescription drugs and prescription drug insurance premiums for Medicare beneficiaries. Medicare beneficiaries enrolled in Part D were entitled to use their benefits to pay for all or part of the cost of prescriptions.

8. Medicare, Medi-Cal, and private insurance companies each qualified as a “health care benefit program,” as defined by Title 18, United States Code, Section 24(b), in that they were public or private plans, affecting interstate commerce, under which medical benefits, items, and services were provided to individuals.

9. Eligible Medi-Cal and Medicare beneficiaries as well as private insurance company beneficiaries could obtain prescriptions from non-provider doctors and still use benefits to pay for these prescriptions.

10. DANIELS was enrolled as a Medicare physician, was assigned an NPI (1 [REDACTED] 8364), and was eligible to receive payments from Medicare for legitimate services. DANIELS was also enrolled as a Medi-Cal provider. However, DANIELS did not bill Medicare, Medi-Cal, or private insurance companies for her services.

Controlled Substances

11. The Controlled Substances Act governs the manufacture, distribution, and dispensing of controlled substances in the United States. Under the Controlled Substances Act, there are five schedules of controlled substances – Schedules I, II, III, IV, and V. Controlled substances are scheduled into these levels based upon their potential for abuse, among other things. Schedule I contains the most dangerous, addicting, and restricted drugs, and Schedule V the least. Oxycodone is a Schedule II controlled substance. Oxycodone is a narcotic analgesic similar to morphine frequently prescribed under the brand name Oxycontin. Oxycodone is used to treat severe pain, and, even if taken only in prescribed amounts, can cause physical and psychological dependence when taken for a long time. Hydrocodone is a Schedule III controlled substance.

12. Title 21, United States Code, Section 821, provides that “[t]he Attorney General [of the United States] is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled substances.”

1 13. The Attorney General of the United States has exercised rulemaking authority regarding
2 the dispensing of controlled substances through the promulgation of 21 Code of Federal Regulations
3 Section 1306.04, governing the issuance of prescriptions, which provides, among other things, that “a
4 prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by
5 an individual practitioner acting in the usual course of his professional practice.” Moreover, “an order
6 purporting to be a prescription issued not in the usual course of professional treatment . . . is not a
7 prescription within the meaning and intent of Section 309 of the Act [21 U.S.C. § 829] and the person
8 knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the
9 penalties provided for violations of the law relating to controlled substances.”

10 14. The Drug Enforcement Administration (“DEA”) issues registration numbers to qualifying
11 doctors who thereby become authorized to dispense Schedule II, III, IV, and V controlled substances.
12 To issue a prescription for a controlled substance, a doctor must have a DEA registration number.

13 15. DANIELS possessed DEA registration number BD7 [REDACTED] 5, which authorized her to
14 prescribe controlled substances in Schedules II through V, for legitimate medical purposes and in the
15 usual course of professional practice. Prescriptions for controlled substances issued by DANIELS were
16 presented at various pharmacies, and claims for some of these prescriptions were submitted to health
17 care benefit programs for reimbursement and payment.

18 OVERVIEW OF THE CONSPIRACIES AND THE SCHEME TO DEFRAUD

19 16. Beginning on or about approximately October 2010, and continuing through
20 approximately April 2011, in the Northern District of California, the defendant devised and intended to
21 devise a scheme and artifice to defraud health care benefit programs in connection with the delivery of
22 or payment for health care benefits, items, and services, by knowingly submitting, and causing others to
23 submit, false and fraudulent claims for prescriptions represented to have been in the usual course of
24 medical practice and for a legitimate medical purpose, which were not.

25 MANNER AND MEANS OF THE SCHEME TO DEFRAUD

26 17. DANIELS met with clients at various retail establishments in the Oakland area to sell
27 them prescriptions for controlled and non-controlled substances without first determining any medical
28 necessity for the prescription.

1 18. Prior to the meetings, DANIELS and her accomplices communicated with DANIELS'
2 clients via text message and telephone to ascertain what drugs the clients wanted DANIELS to prescribe
3 for them, and to inform clients where to meet DANIELS.

4 19. DANIELS wrote fraudulent prescriptions for her clients in exchange for cash payments
5 of between \$40 and \$100 per prescription, knowing that her clients took these prescriptions to
6 pharmacies, which either charged the clients cash to fill the prescriptions, or billed and received
7 payments from health care benefit programs based on those prescriptions.

8 20. DANIELS knew that some of her clients were enrolled in health care benefit programs.

9 21. DANIELS further knew that when she provided fraudulent prescriptions to her clients
10 who were enrolled in health care benefit programs, the pharmacies where her clients filled those
11 prescriptions would then submit claims to health care benefit programs in order to be reimbursed based
12 on those false and fraudulent prescriptions provided by DANIELS.

13 22. Between October 15, 2010 and April 15, 2011, the Medicare and Medi-Cal prescription
14 drug plans paid over \$64,000 in false and fraudulent Medicare and Medi-Cal claims for drugs prescribed
15 by DANIELS to her clients.

16 23. DANIELS dispensed controlled substances to clients for no legitimate medical purpose
17 and outside the bounds of professional practice by engaging in the following practices, among others:
18 failing to conduct any medical examinations of her clients, failing to obtain thorough medical histories
19 or histories of prior drug abuse or addiction, failing to require any drug testing of her clients, failing to
20 take account of signs of drug abuse and diversion, failing to order any diagnostic testing, failing to
21 maintain medical records for clients, and oftentimes failing to meet with clients before writing a
22 prescription.

23 COUNT ONE: (18 U.S.C. § 1349 and 2 — Conspiracy to Commit Health Care Fraud)

24 24. The allegations of Paragraphs One through Twenty-Three of this Indictment are re-
25 alleged and incorporated herein as if set forth fully here.

26 25. Beginning on or about approximately October 2010, and continuing through
27 approximately April 2011, in the Northern District of California, the defendant,

28 TONI DENISE DANIELS,

1 and others known and unknown, did knowingly conspire and agree to execute, and to attempt to execute,
2 a material scheme and artifice to defraud a health care benefit program affecting commerce, as defined
3 in Title 18, United States Code, Section 24(b), all in connection with the delivery of and payment for
4 health care benefits, items, and services.

5 All in violation of Title 18, United States Code, Section 1349.

6 COUNT TWO: (21 U.S.C. § 846 – Conspiracy to Distribute and Dispense a Controlled
7 Substance)

8 26. The allegations of Paragraphs One through Twenty-Three of this Indictment are re-
9 alleged and incorporated herein as if set forth fully here.

10 27. Beginning on or about approximately October 2010, and continuing through
11 approximately April 2011, in the Northern District of California, the defendant,

12 TONI DENISE DANIELS,

13 and others known and unknown, did knowingly and intentionally conspire to distribute and dispense,
14 and cause the intentional distribution and dispensing of pills containing oxycodone, a Schedule II
15 controlled substance, and Hydrocodone, a Schedule III controlled substance, among other controlled
16 substances, while acting and intending to act outside the usual course of professional practice and
17 without a legitimate medical purpose.

18 All in violation of Title 21, United States Code, Sections 846, 841(a)(1), and 841(b)(1)(C).

19 COUNTS THREE THROUGH SEVEN: (21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 18 U.S.C. §
20 2 – Distribution and Dispensing of a Controlled
Substance & Aiding and Abetting)

21 28. The allegations of Paragraphs One through Twenty-Three of this Indictment are re-
22 alleged and incorporated herein as if set forth fully here.

23 29. On or about the dates set forth below, in the Northern District of California, the
24 defendant,

25 TONI DENISE DANIELS,

26 a physician licensed to practice medicine in the State of California, while acting and intending to act
27 outside the usual course of professional practice and without a legitimate medical purpose, with others
28 known and unknown, knowingly and intentionally distributed and dispensed, and caused the intentional

distribution and dispensing of, the following pills containing a detectable amount of oxycodone, a narcotic drug and Schedule II controlled substance, and Hydrocodone, a Schedule III controlled substance, among other controlled substances, to the following persons:

Count	Client	Date Prescription Issued	Prescription Description	Payment Amount to Defendant
3	K.W.	2/24/2011	90 Oxycodone 30mg 15 Alprazolam (Xanax) 2mg	Cash- \$60.00
4	K.W.	3/30/2011	90 Hydrocodone 10mg 25 Carisoprodol 350mg 90 Oxycodone 30mg	Cash- \$60.00
5	L.M.	3/3/2011	120 Oxycodone 30mg	Cash- \$60.00
6	L.M.	3/11/2011	160 Oxycodone 30mg	Cash- \$60.00
7	E.S.	3/16/2011	120 Oxycodone 30mg 110 Hydrocodone 10mg	Cash- \$80.00

All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(C); and Title 18, United States Code, Section 2.

COUNT EIGHT: (26 U.S.C. § 7203 – Willful Failure to File Tax Return)

30. Paragraphs One through Three are realleged and incorporated herein as if fully set forth here.

31. DANIELS filed individual income tax returns for the tax years 2004-2009.

32. During the calendar year 2010, in the Northern District of California, the defendant,

TONI DENISE DANIELS,

received gross income of \$143,869. By reason of such gross income, she was required by law, following the close of calendar year 2010 and on or before April 15, 2011, to make an income tax return to the Internal Revenue Service stating specifically the items of her gross income and any deductions and credits to which she was entitled. Well knowing and believing all of the foregoing, she did willfully fail, on or about April 15, 2011 to make an income tax return.

All in violation of Title 26, United States Code, Section 7203.

FIRST FORFEITURE ALLEGATION: (18 U.S.C. § 982(a)(7) – Health Care Fraud Forfeiture)

33. The factual allegations contained in paragraphs One through Twenty-Five are realleged and incorporated as if fully set forth here for the purpose of alleging forfeiture pursuant to Title 18,

1 United States Code, Section 982(a)(7).

2 34. Upon a conviction of the offense alleged in Count One, the defendant,
3 TONI DENISE DANIELS,
4 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(7), all right,
5 title and interest in property, real and personal, that constitutes or is derived from, directly or indirectly,
6 gross proceeds traceable to the commission of the offense, including but not limited to a sum of money
7 equal to the gross proceeds obtained as a result of the offense.

8 35. If any of the property, as a result of any act or omission of the defendant:

- 9 a. cannot be located upon the exercise of due diligence;
10 b. has been transferred or sold to, or deposited with, a third party;
11 c. has been placed beyond the jurisdiction of the court;
12 d. has been substantially diminished in value; or
13 e. has been commingled with other property which cannot be divided without
14 difficulty,

15 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,
16 United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

17 All in violation of Title 18, United States Code, Sections 982(a)(7) and 1347; and Rule 32.2 of
18 the Federal Rules of Criminal Procedure.

19 SECOND FORFEITURE ALLEGATION: (18 U.S.C. § 853(a)(1) – Drug Forfeiture)

20 36. The factual allegations contained in paragraphs One through Twenty-Three and Twenty-
21 Six through Twenty-Nine are realleged and incorporated herein as if fully set forth here for the purpose
22 of alleging forfeiture pursuant to Title 18, United States Code, Section 853(a)(1).

23 37. Upon a conviction of any of the offenses alleged in Counts Three through Seven, the
24 defendant,

25 TONI DENISE DANIELS,
26 shall forfeit to the United States, pursuant to Title 18, United States Code, Section 853(a)(1), all right,
27 title and interest in property, real and personal, that constitutes or is derived from, directly or indirectly,
28 gross proceeds traceable to the commission of the offense, including but not limited to a sum of money

1 equal to the gross proceeds obtained as a result of the offense.

2 38. If any of the property, as a result of any act or omission of the defendant:

- 3 a. cannot be located upon the exercise of due diligence;
4 b. has been transferred or sold to, or deposited with, a third party;
5 c. has been placed beyond the jurisdiction of the court;
6 d. has been substantially diminished in value; or
7 e. has been commingled with other property which cannot be divided without
8 difficulty,

9 the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21,
10 United States Code, Section 853(p).


11 All in violation of Title 21, United States Code, Sections 846 and 841; and Rule 32.2 of the
12 Federal Rules of Criminal Procedure.

13
14 DATED: Mar 27, 2014

A TRUE BILL.

15
16 
17 FOREPERSON

18
19 MELINDA HAAG
20 United States Attorney

21 
22 THOMAS STEVENS
23 Chief, Oakland Branch

24 (Approved as to form: )
25 AUSA RANDY LUSKEY

United States District Court
Northern District of California

FILED

MAR 27 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

CRIMINAL COVER SHEET

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case. Please place this form on top of the Defendant Information Form.

SEALED
BY COURT ORDER

CR14-00170

PJH

Case Name:

USA v. TONI DENISE DANIELS

Total Number of Defendants:

1 ☒ 2-7 _____ 8 or more _____

Is This Case Under Seal?

Yes ☒ No _____

Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?

Yes _____ No ☒

Venue (Per Crim. L.R. 18-1):

SF _____ OAK ☒ SJ _____

Is this a death-penalty-eligible RICO Act gang case?

Yes _____ No ☒

Assigned AUSA (Lead Attorney):

Randy Luskey

Comments:

Date Submitted:

March 27, 2014

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED

See Attachment A

- ☐
- Petty
-
- ☐
- Minor
-
- ☐
- Misdemeanor
-
- ☒
- Felony

PENALTY: See Attachment A

**SEALED
BY COURT ORDER**

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

DEFENDANT - U.S.

TONI DENISE DANIELS

DISTRICT COURT NUMBER

CRI4-00170 PJH

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI Special Agent Kristen McLeran

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW
DOCKET NO.
☐ this prosecution relates to a pending case involving this same defendant
MAGISTRATE
CASE NO.
☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

Asst U.S. Atty Randy Luskey

DEFENDANT**IS NOT IN CUSTODY**
 1) ☒ Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... If Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT

Bail Amount: NO BAIL

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

Indictment charges Ms. Daniels in 8 counts.

United States v. Toni Denise Daniels
Defendant Information Sheet
Attachment A

charges the defendant with conspiring to commit HCF in violation of Title 18 USC § 1349

COUNT 1: 18 U.S.C. § 1349 — Health Care Fraud Conspiracy

Maximum term of 10 years imprisonment

Maximum term of 3 years supervised release

Maximum fine of the greatest of either: (a) \$250,000; (b) twice the gross pecuniary gain to the defendant; or (c) twice the gross pecuniary loss inflicted on another

Mandatory special assessment of \$100

COUNT 2: 21 U.S.C. § 846 — Conspiracy to Distribute and Dispense Controlled Substances

Maximum term of 20 years imprisonment

Maximum term of 3 years supervised release

Maximum fine of \$1 million

Mandatory special assessment of \$100

COUNTS 3 THROUGH 7: 21 U.S.C. §§ 841(a)(1) and (b)(1)(C) and 18 U.S.C. § 2 — Distribution and Dispensing of Controlled Substances

Maximum term of 20 years imprisonment

Maximum term of 3 years supervised release

Maximum fine of \$1 million

Mandatory special assessment of \$100

COUNT 8: 26 U.S.C. § 7203 — Willful Failure to File Tax Return (Misdemeanor)

Maximum term of 1 year imprisonment

Maximum fine of \$25,000 plus the costs of prosecution

Mandatory special assessment of \$100

HCF Forfeiture allegation.
Drug Forfeiture allegation.